



General Assembly

February Session, 2014

Raised Bill No. 5595

LCO No. 3038



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING COLLATERAL SOURCE PAYMENTS IN
PERSONAL INJURY AND WRONGFUL DEATH ACTIONS AND
REQUIRING DISCLOSURES UPON THE PURCHASE OF AN ANNUITY
TO FUND PENSION BENEFITS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 52-225b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014, and*
3 *applicable to actions pending on or filed on or after said date*):

4 For the purposes of sections 52-225a to 52-225c, inclusive, as
5 amended by this act: "Collateral sources" means any payments made to
6 the claimant, or on [his] the claimant's behalf, by or pursuant to: (1)
7 Any health or sickness insurance, private Medicaid managed care
8 health plan, automobile accident insurance that provides health
9 benefits, and any other similar insurance benefits, except life insurance
10 benefits available to the claimant, whether purchased by [him] the
11 claimant or provided by others; or (2) any contract or agreement of any
12 group, organization, partnership or corporation to provide, pay for or
13 reimburse the costs of hospital, medical, dental or other health care

14 services. "Collateral sources" do not include amounts received by a
15 claimant as a settlement.

16 Sec. 2. Section 52-225a of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2014*):

18 (a) In any civil action, whether in tort or in contract, [wherein] in
19 which the claimant seeks to recover damages resulting from (1)
20 personal injury or wrongful death occurring on or after October 1,
21 1987, or (2) personal injury or wrongful death, arising out of the
22 rendition of professional services by a health care provider, occurring
23 on or after October 1, 1985, and prior to October 1, 1986, if the action
24 was filed on or after October 1, 1987, and [wherein] in which liability is
25 admitted or is determined by the trier of fact and damages are
26 awarded to compensate the claimant, the court shall reduce the
27 amount of such award which represents economic damages, as
28 defined in subdivision (1) of subsection (a) of section 52-572h, by an
29 amount equal to the total of amounts determined to have been paid
30 under subsection (b) of this section less the total of amounts
31 determined to have been paid, contributed or forfeited under
32 subsection (c) of this section, except that there shall be no reduction by
33 the court for (A) a collateral source for which a right of subrogation
34 exists, and (B) the amount of collateral sources equal to the reduction
35 in the claimant's economic damages attributable to the claimant's
36 percentage of negligence pursuant to section 52-572h.

37 (b) Upon a finding of liability and an awarding of damages by the
38 trier of fact and before the court enters judgment, the court shall
39 receive evidence from the claimant and other appropriate persons
40 concerning the total amount of collateral sources which have been paid
41 for the benefit of the claimant as of the date the court enters judgment.
42 For purposes of this subsection, evidence that a physician or physician
43 assistant licensed under chapter 370, dentist licensed under chapter
44 379, chiropractor licensed under chapter 372, natureopath licensed
45 under chapter 373, physical therapist licensed under chapter 376,

46 podiatrist licensed under chapter 375, psychologist licensed under
47 chapter 383, an emergency medical technician certified under chapter
48 368d, optometrist licensed under chapter 380 or advanced practice
49 registered nurse licensed under chapter 378, accepted an amount less
50 than the total amount of any bill generated by such physician,
51 physician assistant, dentist, chiropractor, natureopath, physical
52 therapist, podiatrist, psychologist, emergency medical technician,
53 optometrist or advanced practice registered nurse, or evidence that an
54 insurer paid less than the total amount of any bill generated by such
55 physician, physician assistant, dentist, chiropractor, natureopath,
56 physical therapist, podiatrist, psychologist, emergency medical
57 technician, optometrist or advanced practice registered nurse, shall be
58 admissible as evidence of the total amount of collateral sources which
59 have been paid for the benefit of the claimant as of the date the court
60 enters judgment.

61 (c) The court shall receive evidence from the claimant and any other
62 appropriate person concerning any amount which has been paid,
63 contributed or forfeited, as of the date the court enters judgment, by, or
64 on behalf of, the claimant or members of [his] the claimant's immediate
65 family to secure [his] the claimant's right to any collateral source
66 benefit which [he] the claimant has received as a result of such injury
67 or death.

68 Sec. 3. (NEW) (*Effective October 1, 2014*) (a) For the purposes of this
69 section:

70 (1) "Insurer" means an insurer, as defined in section 38a-1 of the
71 general statutes;

72 (2) "Employer" means any person engaged in business in this state
73 who has two or more employees, excluding the state or any political
74 subdivision thereof; and

75 (3) "Employee pension benefit plan" means an "employee pension
76 benefit plan", as defined in 29 USC 1002(2)(A).

77 (b) On and after October 1, 2014, each insurer that issues an
78 allocated or unallocated annuity contract to an employer or an
79 employee pension benefit plan on behalf of an employer, for the
80 purpose of providing retirement benefits to employees of the
81 employer, which annuity contract is not protected under the federal
82 Pension Benefit Guaranty Corporation, shall provide the following
83 disclosures in writing to each employee who is an intended beneficiary
84 of the annuity contract or the employee pension benefit plan not later
85 than fifteen days after the effective date of such annuity contract:

86 (1) If the annuity contract replaces or supersedes a pension
87 previously provided under the Employee Retirement Income Security
88 Act of 1974, (A) that the employee will lose protection provided under
89 the Employee Retirement Income Security Act of 1974 and the federal
90 Pension Benefit Guaranty Corporation, and that state law will govern
91 the employee's future benefits under the annuity contract, and (B)
92 information regarding any change in the taxation of such annuity
93 payments provided under state law as compared to the taxation of
94 pension benefits provided under the Employee Retirement Income
95 Security Act of 1974;

96 (2) The amount and scope of coverage, if any, that will be provided
97 by the Connecticut Insurance Guaranty Association in the event of the
98 insurer's financial impairment or insolvency, and the conditions that
99 must be met to qualify for such coverage;

100 (3) The extent to which annuity payments may be subject to the
101 claims of creditors or avoidance actions in bankruptcy proceedings;

102 (4) Information on the annuity contract terms, including (A) a
103 schedule of premium payments for the annuity contract and (B) a
104 description of administrative expenses related to the purchase and
105 maintenance of the annuity contract;

106 (5) Information on how the employee may obtain a copy of the most
107 recent report regarding a financial examination or market conduct

108 examination conducted by the Insurance Commissioner, provided
109 such report is a public record, as defined in section 1-200 of the general
110 statutes.

111 Sec. 4. Section 38a-816 of the 2014 supplement to the general statutes
112 is amended by adding subdivision (23) as follows (*Effective October 1,*
113 *2014*):

114 (NEW) (23) Any violation of section 3 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014, and applicable to actions pending on or filed on or after said date</i>	52-225b
Sec. 2	<i>October 1, 2014</i>	52-225a
Sec. 3	<i>October 1, 2014</i>	New section
Sec. 4	<i>October 1, 2014</i>	38a-816

Statement of Purpose:

To: (1) Amend the definition of "collateral sources" with respect to personal injury and wrongful death claims to clarify that the amount of an award is not reduced by the value of health benefits provided to a Medicaid beneficiary by a private managed care plan, where a separate right of subrogation exists against such benefits, and make technical changes to the collateral sources statutes; and (2) require an insurer to provide certain disclosures to employees when the insurer issues an annuity contract to provide retirement benefits to such employees.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]